Approved For Release 2006/06/21 : CIA-RDP79-00957A000100090010-9

Statement of

WILLIAM E. COLBY
Director of Central Intelligence
before
HOUSE FOREIGN OPERATIONS AND GOVERNMENT INFORMATION SUBCOMMITTEE

August 1, 1974

Mr. Chairman, I welcome the opportunity to testify today on H.R. 12004, introduced by you and others, to replace with a statutory classification system the existing system established by Executive Order 11652, and to discuss the operations of this Executive Order within the Central Intelligence Agency.

Mr. Chairman, at the outset I want you to know that while we in the intelligence profession do have some special security needs, we fully recognize that the bedrock of our system of government is an open society and an informed public.

In a report issued last year your committee stated that "...there is an unquestioned need for Federal agencies to avoid the release or dissemination to the public of certain sensitive types of information, the safeguarding of which is truly vital to protecting the national defense and to maintain necessary confidentiality of dealings between our country and foreign nations." The necessity to safeguard certain truly vital foreign intelligence secrets has been recognized by the Congress in its direction to the Director of Central Intelligence in the National Security Act of 1947 to protect intelligence sources and methods from unauthorized disclosure.

MORI/CDF

Approved For Release 2006/06/21 : CIA-RDP79-00957A000100090010-9

Approved For Release 2006/06/21 : CIA-RDP79-00957A000100090010-9

There are special problems involved in protecting intelligence sources and methods which I believe bear directly upon H.R. 12004 and Executive Order 11652. These problems flow from the very nature of intelligence information - its substance and the means by which it is obtained.

The flight characteristics of a foreign fighter plane, the accuracy and numbers of a foreign ballistic missile, or the plans and capabilities of a foreign country in the economic or political fields are examples of substantive intelligence information. Very often such intelligence information can be a benefit to this nation only if our potential adversary is unaware that we have such knowledge. On this basis such substantive intelligence information is deserving of protection as affecting our nation's vital interests.

But inherent in the substantive information itself are clues to the means through which it was obtained - intelligence sources and methods. Unless these means are protected, countermeasures can be mounted to nullify or impair collection efforts. It was this concern, I believe, which led to the statutory directive that the Director of Central Intelligence is responsible for protecting intelligence sources and methods from unauthorized disclosure.

Approved For Release 2006/06/21 : CIA-RDP79-00957A000100090010-9

Approved For Release 2006/06/21 : CIA-RDP79-00957A000100090010-9

-- Clearly a secret agent operating abroad in a hostile climate must be protected -- not only to enable him to continue to supply intelligence, but also because the freedom and lives of individuals may be at stake. The exposure of an agent obviously ends his immediate usefulness. It may or may not expose his sub-agents and any networks for collecting information he may have established. Finally it may affect our ability to obtain assistance from others. Credibility in protecting our sources is the sine qua non of the intelligence profession.

-- Foreign intelligence services and security agencies are also positive contributors to our intelligence and counter-intelligence programs abroad and continued cooperation often depends upon confidence that the existence of the relationship will be protected.

-- Revelation of methods of technical intelligence collection may result in countermeasures to mislead or obstruct methods of collection and render ineffective costly programs.

-- While a particular piece of intelligence information by itself may not be revealing of sensitive sources and methods, accumulation of bits of intelligence information may well eventually lead back to the sources or methods relied upon for its collection.

Approved For Release 2006/06/21 : CIA-RDP79-00957A000100090010-9

Approved For Release 2006/06/21 : CIA-RDP79-00957A000100090010-9

In view of these considerations, I believe Congress acted wisely when in the 1947 National Security Act it identified a focal point to assume the responsibility to protect against the unauthorized disclosure of sensitive intelligence sources and methods.

Recently I testified before the Intelligence Subcommittee of the House Armed Services Committee on H.R. 15845, which amends the charter of the Central Intelligence Agency in the National Security Act of 1947. One amendment in that bill would reinforce the charge in the original Act by requiring the Director to develop appropriate plans, policies and regulations for the protection of intelligence sources and methods. In that testimony I pointed out that I do not believe the present statutes provide sufficient measures to enforce this responsibility, and that proposals are under consideration in the Executive Branch to remedy this weakness.

The Central Intelligence Agency is not a public information agency, but was established to provide our government with information and assessments to assist policy decisions about developments abroad affecting the United States. Much of this material is necessarily classified as it comes from sensitive intelligence sources. It is thus made available in classified form to the members of the Executive Branch concerned with these questions. Such material is also made available to the Congress, in executive session, to endeavor to assist the Congress in its role in decision making under the American Constitution. To the extent feasible, moreover, the Agency's information is made available to the public, directly or indirectly, in a number of ways.

Approved For Release 2006/06/21 : CIA-RDP79-00957A000100090010-9

Approved For Release 2006/06/21 : CIA-RDP79-00957A000100090010-9

-- Where possible the Agency identifies for public release information resulting from its efforts. A recent example was the China Atlas published in 1972 and an atlas on the Middle East published in 1973.

-- The Agency briefs appropriate committees of the Congress -- the Foreign Affairs and Foreign Relations Committees, the Armed Services Committees and the Joint Committee on Atomic Energy -- in executive session in order to provide the fruits of our nation's intelligence investment. To the extent possible, such information is later cleared for publication. A recent example of this procedure was the detailed testimony on the economies of the Soviet Union and China provided to the Joint Economic Committee and published on July 19th after appropriate screening. We also fully brief the CIA oversight subcommittees of the Armed Services and Appropriations Committees on budget and operational matters.

-- We are completing a review of nearly 1,000 cubic feet of classified OSS records in the custody of the Archivist and over 90 percent of them are being declassified. Moreover, we have reviewed and declassified nearly 250 OSS films.

-- The Agency responds affirmatively whenever possible to requests for information under the Freedom of Information Act and Executive Order 11652. Of requests received and acted on in 1973, affirmative action was taken in 80 percent of the cases.

Approved For Release 2006/06/21 : CIA-RDP79-00957A000100090010-9

Approved For Release 2006/06/21 : CIA-RDP79-00957A000100090010-9

In our efforts to screen our information to decide what can be made available to the public, we must depend upon the training, background, and experience of professional intelligence officers to identify those matters which might appear innocuous but which could reveal to a foreign intelligence service our intelligence sources or methods.

With this background, I would now like to address myself to the provisions of H.R. 12004.

Very simply, H.R. 12004 would conflict severely with the responsibilities of the Director of Central Intelligence to protect intelligence sources and methods. Under the bill all SECRET and CONFIDENTIAL information must be declassified in two and one years, respectively. A great deal of our intelligence product, even of our sources and methods, would not meet the standard under the language of the bill to be classified as TOP SECRET. All such information thus would be declassified in no more than two years. I would find it very difficult, in good conscience and in terms of practicality, to urge a foreign intelligence service or a strategically placed individual in a foreign government or a foreign country to cooperate with this Agency and to provide information in confidence if the law of this country required that such information be made available to the public two years later.

Approved For Release 2006/06/21 : CIA-RDP79-00957A000100090010-9

Approved For Release 2006/06/21 : CIA-RDP79-00957A000100090010-9

All TOP SECRET information would be declassified under the bill in three years, unless it falls within one of several categories, one of which is information which would disclose intelligence sources and methods. But even this information could be declassified by the Classification Review Commission which the bill would establish. Moreover, the Commission could do so in the face of and notwithstanding a written detailed justification by the President himself "for the continued safeguarding of such information based upon national defense interests of the United States of the highest importance." This would seem to raise constitutional questions and it surely would impair my ability to protect intelligence sources and methods.

Under the bill information may be classified only in the interest of "national defense," as contrasted with "national defense or foreign relations of the United States" as now provided by the Executive Order. I believe it important that the bill be in terms which make it clear that the information which may be protected is not limited to strictly defense information.

The bill requires that the names and addresses of all persons authorized to classify must be furnished quarterly to the Classification Review Commission and, upon request, to any member of Congress or the Comptroller General. This feature would hamper severely the operation of the intelligence-gathering function of this Agency, since it would serve to identify many employees whose duties and prospective duties

Approved For Release 2006/06/21 : CIA-RDP79-00957A000100090010-9

Approved For Release 2006/06/21 : CIA-RDP79-00957A000100090010-9

require that their status as employees of CIA not be revealed. It would also be in conflict with the provision of the Central Intelligence Agency Act of 1949 which exempts the Agency from the provisions of any law which require publication or disclosure of certain information concerning Agency personnel.

The requirements for downgrading and declassifying existing information in the first and succeeding years after enactment would pose tremendous administrative burdens. The requirement to transfer to the Classification Review Commission information downgraded from TOP SECRET likewise would be administratively burdensome. Further, it would impinge on my responsibility to protect intelligence sources and methods.

My final point with respect to H.R. 12004 concerns the impact its enactment would have on the authority departments would retain to withhold information based on one of the exemptions of the Freedom of Information Act. Exemption 1 of that Act permits withholding of information classified pursuant to executive order. Exemption 3 permits withholding of information which is "specifically exempted from disclosure by statute." If enactment of H.R. 12004 resulted in the rescission of Executive Order 11652, as I assume it would, the protection of Exemption 1 would be gone. And it might be contended that classification actions made under H. R. 12004 and the regulations of the Classification Review Commission are made "pursuant to" rather than "by" statute and therefore are not to be withheld under Exemption 3. If this contention

Approved For Release 2006/06/21 : CIA-RDP79-00957A000100090010-9

Approved For Release 2006/06/21 : CIA-RDP79-00957A000100090010-9

is sound it would mean that classified information requested under the Freedom of Informtion Act could not be withheld. Clarification by appropriate revision would be highly desirable.

I turn now to Executive Order 11652. That Order, and H.R. 12004 as well, obviously represent an effort to overcome the problem of too much classification and for too long. I believe responsible opinion is in agreement that there are problems in this area. Executive Order 11652, the first major change in classification practices in nearly 20 years, was an attempt to make a turn-around in the government's classification practices which date back to World War II, and to deal with the untold volumes of documents which remain classified. This is a major undertaking. It will require time and much work.

The Order of course has impacted on CIA operations in a number of ways, some of which I mentioned earlier. I propose now to summarize certain others, Mr. Chairman, and, with your permission, I will submit for the record a supplementary statement which provides certain statistics and details.

To meet the requirements of the Executive Order, we have made minor modifications in our data index system, which we had developed through the years as an aid in locating and retrieving information. We have made significant reductions in the numbers of persons authorized to classify information.

Approved For Release 2006/06/21 : CIA-RDP79-00957A000100090010-9

Approved For Release 2006/06/21 : CIA-RDP79-00957A000100090010-9

We have conducted a number of seminars and briefings to familiarize employees with the Order. The Order, the Agency implementing regulation and other written materials are readily available within the Agency and some of this is circulated periodically as required reading.

As a final point, Mr. Chairman, it is my understanding that the principal purpose of H.R. 12004 is to replace the existing executive order system for classification with a statutory system. It is my belief that a statutory basis for classification by CIA already exists. Congress has declared in the National Security Act of 1947 that the Director of Central Intelligence must protect foreign intelligence sources and methods from unauthorized disclosure. Later it declared in the CIA Act of 1949 that information relating to such Agency areas as organization, functions, and identities of personnel is protected information. In general, then, H.R. 12004 as it applies to such areas in CIA is in conflict with existing statutes relating to the Central Intelligence Agency, and would dilute my responsibility and ability to protect intelligence sources and methods from unauthorized disclosure.

To summarize, Mr. Chairman, my particular concern with respect to H.R. 12004 arises from my statutory charge to protect intelligence sources and methods. We are working to carry out the requirements and objectives of E.O. 11652 but its full implementation will take time and it is too soon to conclude that it is entirely satisfactory. And finally, Mr. Chairman, I am committed to the view that the intelligence investment is to be fully returned to the taxpayer in the form of quality intelligence for the government's policymakers and for the public, to the extent possible while protecting intelligence sources and methods, the duty charged to me by the National Security Act of 1947.

Approved For Release 2006/06/21 : CIA-RDP79-00957A000100090010-9

Approved For Release 2006/06/21 : CIA-RDP79-00957A000100090010-9

Supplementary Statement of

WILLIAM E. COLBY
Director of Central Intelligence

August 1, 1974

A brief description of some of the specifics of CIA implementation of Executive Order 11652 might be useful to the Committee.

One of the major requirements under the Executive Order, and one which has attracted some interest, is the establishment of a data index system. The implementing NSC Directive calls for such a system for classified information in categories approved by the Interagency Classification Review Committee "as having sufficient historical or other value appropriate for preservation." Happily the CIA was in a relatively good position when this requirement was established. For some time the Agency has had a sophisticated, computerized data index system, improved and refined through the years, by which it has indexed, among other documents, finished intelligence reports. Such reports have been approved by the Interagency Classification Review Committee as a category of information appropriate for preservation. Only a few relatively minor adjustments in the system were necessary to completely conform it to the requirements of the NSC Directive.

The principal purpose of the index system was to retrieve information and it is highly efficient for this purpose. As modified, it also can

Approved For Release 2006/06/21 : CIA-RDP79-00957A000100090010-9

Approved For Release 2006/06/21 : CIA-RDP79-00957A000100090010-9

be useful in the review and declassification process. It is anticipated that usefulness in these areas will increase as the years go by and as the data base of an ever-increasing proportion of the indexed documents includes the now required classification data elements. The data index system, on the other hand, can be of little or no value in guarding against or tracing leaks of classified information, and this is especially true in this day of the copying machine.

In concert with other departments, CIA has experienced a significant reduction in the numbers of authorized classifiers in each of the three classification levels. The initial reduction was in excess of 40 percent and there has been an additional small reduction. One factor which limits the Agency's ability to reduce these numbers is that its people are located in so many places abroad. In all such installations, even if there is only a one-man component, that individual must have authority to classify information. Nevertheless, it may be possible to make further reductions in the future.

Under the Executive Order, any person may request a review for declassification purposes of any sufficiently identified document which is at least 10 years old. CIA has had a number of requests for review and declassification. In 1973, 110 declassification requests were received, 50 of which were granted in full, 19 granted in part, 18 were denied, and action on 23 was pending at the end of that year.

Approved For Release 2006/06/21 : CIA-RDP79-00957A000100090010-9

Approved For Release 2006/06/21 : CIA-RDP79-00957A000100090010-9

A number of requests have originated with other government departments in connection with their consideration of declassification requests to those departments. Requests have come in from the press, from current and former employees, from professors, graduate students, high school and college students, and from individuals who have not revealed their occupation or position. Perhaps the greatest number of requests originated with other departments, with the press and scholars constituting the second and third largest categories.

Requests revealed an interest in World War II and OSS activities, in CIA involvement in Guatemala and Cuba, and -- probably the greatest number -- in Agency involvement in Vietnam. Denial of requests is based on the nature of the information as measured against the standards of the Executive Order. Documents have been denied which reveal a confidential intelligence source or agent. Information received from a foreign government with the understanding that it be kept in confidence has been denied. Documents have been denied which would disclose that an individual whose duties and career require that his CIA employment not be revealed, in fact is a CIA employee.

It has been possible to approve the request for over 200 OSS documents made by a historical researcher who was writing a book on his experience as head of the OSS mission to Hanoi. A number of requests for documents concerning certain Indonesian matters from a Vassar professor doing research on U.S./Indonesia relations during

Approved For Release 2006/06/21 : CIA-RDP79-00957A000100090010-9

Approved For Release 2006/06/21 : CIA-RDP79-00957A000100090010-9

the early 1960's have been approved. The French Broadcasting System requested the OSS film "Mission to Yenan." This was made available to them, and to the public, by declassifying it and transferring it to the National Archives.

In the area of training, security briefings are given new employees covering the standards and procedures established by the Executive Order. A series of meetings were held in 1973 for 160 key personnel for the purpose of briefing these supervisory personnel on the requirements of the Order. Overseas assignments and job requirements would preclude training for all employees, but the CIA regulation contains the requirements of the Executive Order and is readily available throughout the Agency. The security and records management features of the Executive Order are treated in various Agency lectures and seminars, including the regular Mid-Career Executive Development Course and the Management and Services Reviews. Basic information pertaining to E.O. 11652, including the criteria for classifying information, is included in required reading which is circulated periodically to all personnel.

Approved For Release 2006/06/21 : CIA-RDP79-00957A000100090010-9